

**ASSEMBLY BILL**

**No. 578**

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**Introduced by Assembly Member Shirley Horton**

February 16, 2005

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An act to amend Section 44010.5 of the Health and Safety Code, relating to vehicular air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 578, as introduced, Shirley Horton. Air pollution: Smog check: test-only stations.

Existing law establishes a motor vehicle inspection and maintenance program (smog check), administered by the Department of Consumer Affairs, that provides for the inspection of all motor vehicles, except those specifically exempted from the program. Existing law requires, among other things, the Department of Consumer Affairs to establish a network of test-only stations pursuant to contract and requires the department to increase the capacity of the program so that the capacity exists to commence, by January 1, 1996, the testing at test-only facilities of that portion of the state vehicle fleet that is subject to inspection and is registered in the enhanced program area, as specified.

This bill would permit, rather than require, the department to increase the capacity of the program for testing at test-only facilities of that portion of the state fleet that is subject to inspection and that is registered in the enhanced program area, after completing an open and public review and consideration of the impacts of sending vehicles to test-only facilities, including, but not limited to, consumer costs, additional wait times, additional testing fees, impacts on small businesses, relative environmental benefits, if any.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 44010.5 of the Health and Safety Code  
2 is amended to read:

3 44010.5. (a) The department shall implement a program with  
4 the capacity to commence, by January 1, 1995, the testing at  
5 test-only facilities, in accordance with this chapter, of 15 percent  
6 of that portion of the total state vehicle fleet consisting of  
7 vehicles subject to inspection each year in the biennial program  
8 and that are registered in the enhanced program area, as  
9 established pursuant to paragraph (1) of subdivision (a) of  
10 Section 44003.

11 (b) (1) ~~The~~ *After completing an open and public review and*  
12 *consideration of the impacts of sending vehicles to test-only*  
13 *facilities, including, but not limited to, consumer costs,*  
14 *additional wait times, additional testing fees, impacts on small*  
15 *businesses, relative environmental benefits, if any, the*  
16 ~~department shall~~ *may* increase the capacity of the program so that  
17 the capacity exists to commence, by January 1, ~~1996~~, 2007, the  
18 testing at test-only facilities of that portion of the state vehicle  
19 fleet that is subject to inspection and is registered in the enhanced  
20 program area, which is sufficient to meet the emission reduction  
21 performance standards established by the Environmental  
22 Protection Agency in regulations adopted pursuant to the Clean  
23 Air Act Amendments of 1990, taking into account the results of  
24 the pilot demonstration program established pursuant to Section  
25 44081.6.

26 (2) Upon increasing the capacity of the program pursuant to  
27 paragraph (1), the department shall afford smog check stations  
28 that are licensed and certified pursuant to Sections 44014 and  
29 44014.2 the initial opportunity to perform the required  
30 inspections. The department shall adopt, by regulation, the  
31 requirements to provide that initial opportunity.

32 (3) If the department determines that there is an insufficient  
33 number of licensed test-only smog check stations operating in an  
34 enhanced area to meet the increased demand for test-only

1 inspections, the department may increase the capacity of the  
2 program by utilizing existing contracts.

3 (c) The program shall utilize loaded mode dynamometer test  
4 equipment, as determined through the pilot demonstration  
5 program.

6 (d) Vehicles in the enhanced program area which are not  
7 subjected to the program established by this section may be  
8 tested at smog check stations licensed pursuant to Section 44014  
9 that use loaded mode dynamometers.

10 (e) (1) The department may implement the program  
11 established pursuant to subdivision (a) through a network of  
12 privately operated test-only facilities established pursuant to  
13 contracts to be awarded pursuant to this section.

14 (2) The initial contracts awarded pursuant to this section shall  
15 terminate not later than seven years from the date that the  
16 contracts were executed.

17 (f) No person shall be a contractor of the department for  
18 test-only facilities in all air basins, exclusively, where the  
19 enhanced program is in effect unless the department determines,  
20 after a public hearing, that there is not more than one qualified  
21 contractor. The South Coast Air Basin shall have at least two  
22 contractors, and the combined enhanced program area that  
23 includes Bakersfield, Fresno, and Sacramento shall have at least  
24 two contractors. The department may operate test-only facilities  
25 on an interim basis while contractors are being sought.

26 (g) (1) In awarding contracts under this section, the  
27 department shall request bids through the issuance of a request  
28 for proposal.

29 (2) The department shall first determine which bidders are  
30 qualified, and then award the contract to the qualified bidder,  
31 giving priority to the test cost and convenience to motorists.

32 (3) The department shall provide a contractual preference, as  
33 determined by the department, not to exceed 10 percent of the  
34 total proposal evaluation score, based on the following factors:

35 (A) Up to 5 percent to bidders providing firm commitments to  
36 employ businesses that are licensed or otherwise substantially  
37 participating in the smog check program after January 1, 1994.

38 (B) Up to 5 percent to bidders based on the extent to which  
39 bidders maximize the potential economic benefit of the smog  
40 check program on this state over the term of the contract. That

1 potential economic benefit shall include the percentage of work  
2 performed by California-based firms, the potential of the total  
3 project work force who will be California residents, and the  
4 percentage of subcontracts that will be awarded to  
5 California-based firms.

6 (4) Any contract executed by the department for the operation  
7 of a test-only facility shall expressly require compliance with this  
8 chapter and any regulations adopted by the department pursuant  
9 to this chapter.

10 (h) The department shall ensure that there is a sufficient  
11 number of test-only facilities, and that they are properly located,  
12 to ensure reasonable accessibility and convenience to all persons  
13 within an enhanced program area, and that the waiting time for  
14 consumers is minimized. The department may operate test-only  
15 facilities on an interim basis to ensure convenience to consumers.  
16 The department shall specify in the request for proposal the  
17 minimum number of test-only facilities that are required for the  
18 program. Any contracts initially awarded pursuant to this section  
19 shall ensure that the contractors are capable of fulfilling the  
20 requirements of subdivision (a).

21 (i) Any data generated at a test-only facility shall be the  
22 property of the state, and shall be fully accessible to the  
23 department at any time. The department may set contract  
24 specifications for the storage of that data in a central data storage  
25 system or facility designated by the department.

26 (j) The department shall ensure an effective transition to the  
27 new program by implementing an effective public education  
28 program and may specify in the request for proposal a dollar  
29 amount that bidders are required to include in their bids for  
30 public education activities, to be implemented pursuant to  
31 Section 44070.5.

32 (k) The department shall ensure the effective management of  
33 the test-only facilities and shall specify in the request for  
34 proposal that a manager be present during all hours of station  
35 operation.

36 (l) The department shall ensure and facilitate the effective  
37 transition of employees of businesses that are licensed or  
38 otherwise substantially participating in the smog check program  
39 and may specify in the request for proposal that test-only facility  
40 management be Automotive Service Excellence (ASE) certified,

1 or be certified by a comparable program as determined by the  
2 department.

3 (m) As part of the contracts to be awarded pursuant to  
4 subdivision (e), the department may require contractors to  
5 perform functions previously undertaken by referee stations  
6 throughout the state, as determined by the department, at some or  
7 all of the affected stations in enhanced areas, and at additional  
8 stations outside enhanced areas only to the extent necessary to  
9 provide appropriate access to referee functions.

10 (n) Notwithstanding any other provision of law, to avoid  
11 delays to the program implementation timeline required by this  
12 chapter or the Clean Air Act, the Department of General  
13 Services, at the request of the department, may exempt contracts  
14 awarded pursuant to this section from existing laws, rules,  
15 resolutions, or procedures that are otherwise applicable,  
16 including, but not limited to, restrictions on awarding contracts  
17 for more than three years. The department shall identify any  
18 exemptions requested and granted pursuant to this subdivision  
19 and report thereon to the Legislature.

20 (o) This section shall not be implemented unless the  
21 memorandum of agreement described in Section 44081.6 is  
22 signed by both the California Environmental Protection Agency  
23 and the Environmental Protection Agency.

24 (p) The department shall implement the program established  
25 in this section only in urbanized areas classified by the  
26 Environmental Protection Agency as a serious, severe, or  
27 extreme nonattainment area for ozone or a moderate or serious  
28 nonattainment area for carbon monoxide with a design value  
29 greater than 12.7 ppm, and shall not implement the program in  
30 any other area.

31 (q) If existing smog check stations, in order to participate in  
32 the enhanced program, have been required to make additional  
33 investments of more than ten thousand dollars (\$10,000), the  
34 department shall submit recommendations to the Governor and  
35 the Legislature for any appropriate mitigation measures.